IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12524 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MANJUBEN D/O DAHYABHAI RANCHHODBHAI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 12524 of 2002

MR BM MANGUKIYA for Petitioner No. 1-6

MR MK DAGLI, AGP for Respondent No. 1-2

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 03/02/2003

ORAL JUDGEMENT

1. Rule. Mr. M.K.Dagli, ld. AGP appears and waives formal service of Rule for the respondents. With the consent of the parties, the matter is taken up for final

hearing today.

2. The petitioner submitted an application under Section 73-AA of the Bombay Land Revenue Code, 1879 seeking permission to sell the land in question to a person who is not the member of the Scheduled Tribe. The grievance of the petitioner, in nutshell, is that in view of the development of the area falling under the TP Scheme, the ld. Collector ought to have taken liberal view while considering the application of the petitioner to sell the land and ought to have granted application. In the altenratively, it is submitted that the Collector has not disposed of the application by passing speaking order assigning reasons and it is difficult for the petitioner to understand whether her application is rejected or is simply filed by the Collector so that she can approach the Collector afresh. He has further stated that in view of aforesaid facts, letter dated 11.10.2002 at Annex.F at page 26 cannot be said tobe order especially in the matter where the petitioner has approached the Collector for specific order under Sec.73-AA of the Bombay Land Revenue Code.

3. According to ld. AGP Mr. Dagli, Collector can be directed to deal with and dispose of the said application afresh by speaking order considering the totality of the facts and circumstances emerging from the record and if finding is against the petitioner, she can approach the higher forum.

4. In view of the facts and circumstances of the case, Respondent No.2 Collector is directed to consider and dispose of the application dated 29.11.2001 submitted by the petitioner under Section 73-AA of the Bombay Land Revenue Code afresh and in accordance with law and in the background of the record and other documents supplied by the petitioner and the fact that the land is located in the area falling under TP Scheme. The Collector shall decide the said application within the reasonable time and preferably within THREE MONTHS from the date of receipt of order of this Court.

5. Rule is made absolute accordingly. Direct Service is permitted.

03.02.2003 [C.K. BUCH, J]
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